United Nations A/53/950

General Assembly

Distr.: General
10 May 1999

Original: English

Fifty-third session
Agenda item 43
The situation of democracy and human rights in Haiti

The situation of democracy and human rights in Haiti

Report of the Secretary-General

I. Introduction

1. The present report is the first of two reports on the implementation of General Assembly resolution 53/95 of 8 December 1998, by which the Assembly renewed the mandate of the United Nations component of the International Civilian Mission to Haiti (MICIVIH), undertaken jointly with the Organization of American States (OAS), until 31 December 1999.

2. Prepared in consultation with the General Secretariat of OAS the report reviews the situation of democracy and human rights in Haiti. It also describes the activities of MICIVIH in carrying out the tasks of providing institutional assistance, with particular reference to the judiciary, supporting the promotion and protection of human rights, and verifying observance of individual rights and fundamental freedoms.

3. MICIVIH and the United Nations Civilian Police Mission in Haiti (MIPONUH) have separate mandates which complement each other. They liaise and cooperate in the field with regard to the training and conduct of the Haitian National Police (HNP). As in the past, MIPONUH provides MICIVIH with logistical and administrative support. MICIVIH also liaises and collaborates with United Nations agencies such as the United Nations Development Programme (UNDP), the World Food Programme (WFP), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Children's Fund (UNICEF) on joint projects and has participated in the coordination and planning of activities of the United Nations system in Haiti. The Mission regularly transmits its reports to the Special Expert on Haiti of the Commission on Human Rights and met with him during his visit to Haiti in February. It also met with a visiting representative of the Office of the High Commissioner for Human Rights to discuss the organization of a seminar for non-governmental organizations and state agents. The Mission also provided reports to the OAS Inter-American Commission on Human Rights.

II. General context

4. Since the report of 18 November 1998 (A/53/564), the political situation has changed in various ways — some disturbing, others encouraging. Developments have deepened the existing political and institutional crisis, while, at the same time, offering the faint possibility of achieving a resolution to it.

5. In mid-December 1998, the relative optimism that followed the belated unblocking in Parliament of the stalled ratification process of Prime Minister-designate Alexis was quickly dispelled by the inability of the Prime Minister and the majority party in Parliament, the Organisation du peuple en lutte (OPL), to agree on the composition of the

99-13660 (E) 270599

Government. The uncompleted process then foundered altogether on 11 January, when President Préval, invoking the time-limit provisions of the 1995 Electoral Law, declared that the mandate of most members of Parliament (excluding one third of the Senate members) and of locally elected officials had expired.

6. The result of the President's declaration was the creation of an institutional void, which, in the absence of a legislature, precluded any incoming Government from obtaining the constitutionally required parliamentary seal of approval and, consequently, legitimacy. It also seriously disrupted the system of checks and balances on which the Haitian democratic process is based by removing parliamentary oversight of the executive branch of power.

7. The President has been challenged on this issue before the Haitian courts by the outgoing Parliament, so far unsuccessfully. Broad sectors of Haitian society and the political opposition condemned the decision as a constitutional *coup d'état*. Nonetheless, it received the support of a number of popular organizations.

8. Furthermore, the inconsistency of the President's treatment of elected local officials served to foster additional controversy. While officials elected in 1995 (mayoral cartels and administrative councils of the communal sections) were reappointed as interim agents of the executive or simply dismissed and replaced (as in the case of the Mayor of Port-au-Prince), officials elected in 1997 as members of the territorial assemblies continued to enjoy their prerogatives. Certain sectors of the opposition have denounced as preferential the treatment given to those in the territorial assemblies, who are seen as political allies of the President and the former President and whose key grass-roots positions would allow them to exert political influence during the forthcoming elections.

9. The institutional void has been a watershed event in an already complex and protracted political crisis. The undermining of key representative institutions and the further weakening of the authority of the State raise concerns about the progress of Haiti's transition to democracy. They have also further polarized a deeply fractured society and exacerbated tensions. This difficult political situation was compounded by strikes and street demonstrations, some of them violent. The demonstrations were staged by public school students protesting the inability of their teachers and the Ministry of Education to settle their differences and by grass-roots organizations expressing their support for the President and protesting against those parliamentarians determined to continue functioning or against the reappointment of certain locally elected officials. As a consequence, insecurity increased, and there were spates of armed crime, violent attacks and several assassinations of political and other figures, some of which were apparently political in nature. Among those killed were a well-known doctor, an OPL senator and the driver of the sister of President Préval (who was seriously injured in the attack). A well-known human rights activist was also wounded in an armed attack. Threats and acts of intimidation were reported against parliamentarians, political leaders and human rights activists. Three OPL parliamentarians sought refuge at the residence of the Chilean Ambassador after threats and an attack against the home of one of them. They have since left the country.

10. The heightened insecurity led to further demonstrations and protests, including some by socio-professional groups, and to widespread calls for the authorities to adopt measures to contain the insecurity. *Fanmi Lavalas* has sought to capitalize on these fears by carrying out a campaign calling for the dismissal of the Secretary of State responsible for security and of the Director General of the Haitian National Police (HNP). When a resident of a Port-au-Prince neighbourhood was killed on 20 April, local groups there staged violent protests and called for the dismissal of the two officials.

11. The deepening crisis galvanized the energies of one sector of the opposition which, with the initial participation of OPL, undertook to meet with President Préval and to negotiate a resolution to the stalemate. Unhappy with the concessions which its politically weaker partners were willing to make to the President, OPL decided to withdraw from the coalition group (*Espace de concertation*) on the eve of reaching an agreement with the President. The subsequent assassination of one of its sitting senators, Jean-Yvon Toussaint, made its decision irrevocable.

12. Although the agreement that was eventually reached with the President on 6 March 1999 was the result of a Haitian process, the international community, including the Representative of the Secretary-General, the Executive Director of MICIVIH and the Friends of Haiti, encouraged the parties involved to continue their negotiations, which on several occasions appeared to be on the verge of breakdown. The agreement commits the President to undertake a certain number of broad measures to help resolve the crisis. While it glosses over the outstanding issues of the parliamentary void and the territorial assemblies, it contains broad principles for the establishment of a new Government and provisional electoral council.

13. The agreement of 6 March has been partly implemented despite the scepticism and criticism with which it was greeted in many quarters. A new provisional electoral council was installed. Although the selection procedures used were rejected by certain opposition sectors as being exclusive and unconstitutional, the credibility and the integrity of the members have not been challenged. The recent decision of the provisional electoral council to consult widely with political sectors, professional associations and civil society on a new electoral decree has been well received. Among the most difficult and politically controversial issues awaiting the council will be determining the fate of the disputed results of the April 1997 partial legislative elections. Restoring the confidence of the electorate and the political parties in a deeply discredited electoral process is also a vital challenge of which the council is fully aware. Meanwhile it found itself in the unenviable position of not having any supporting institutional or administrative structures on which to rely, the entire staff of the institution having been dismissed in July 1998.

14. The transitional Government, established, as the President acknowledged, during the inauguration ceremony in "abnormal" (even, some would say, unconstitutional) circumstances, is addressing the preparation of conditions for the organization of the delayed legislative and local governmental elections as a priority. Improvements in the political and security climate will be key elements in their success.

15. The erosion of the moral, social, political and economic fabric of the country, brought about by the protracted political and institutional crisis to which previous reports have alluded, and the consequent widespread disillusionment and questioning of the democratic process make the resolution of the political stalemate all the more imperative. However, the agreement reached between President Préval and the *Espace de concertation* is fragile. The major protagonists of the crisis, OPL and *Fanmi Lavalas*, are not party to it. The *Espace* is not representative of the political opposition, which now views it suspiciously. The intentions of the President remain highly suspect to an embittered and excluded opposition. Above all, the fundamental problems which have troubled the democratic transition and which are at the root of the crisis remain unaddressed. There remains a need to reconcile the widely divergent views held over the exercise of political power and the strategies for social and economic development, in order for there to be favourable prospects for political stability and sustainable institutional and economic development.

16. In the November report (A/53/564), reference was made to the negative impact of the fragmentation and internal tensions of the erstwhile ruling *Lavalas* coalition on well established grass-roots organizations and human rights and victims' defence associations. In view of recent reports of threats and intimidation against human rights groups and an attack against the director of one of them, I call upon the Haitian authorities to take the necessary steps to ensure that important human rights responsibilities be carried out without hindrance.

17. There is broad consensus in Haiti as to the vital importance of elections as a means of repairing the institutional void and of re-launching the democratic transition. There is also acute awareness that, to attain these goals, the forthcoming elections must represent a break with the recent past and be widely accepted as being free, fair and transparent. This is the challenge to which the new provisional electoral council, the transitional Government, and the political actors must rise.

18. International assistance, technical and otherwise, will be crucial to the organization of the elections. However, it has been made clear to the Haitian authorities and the provisional electoral council that such assistance will depend on the measures taken to ensure an impartial and transparent process that encourages wide political and voter participation.

III. Institution-building, human rights monitoring and promotion

19. The difficulties inherent in this complex and fluctuating general context have had an impact on the operations of MICIVIH. The social and political turmoil springing from the deepening crisis and the curtailment of the oversight responsibilities of Parliament vis-à-vis the conduct of the police have led the Mission to place increased emphasis on its monitoring activities. The volatile and increasingly partisan atmosphere described above has increased the sensitivity of MICIVIH's reporting. The paralysis of decision-making during the latter stages of the crisis which coincided with the period under review has severely hampered institution-building, particularly with regard to the implementation of the long-delayed judicial reform process.

20. The evaluation of the human rights situation and the measures needed or being taken to address it, described below, is based on the Mission's work in all three areas of its mandate during the period under review.

A. Haitian National Police

21. The political crisis, a concerted campaign of denigration against the Haitian National Police leadership, numerous demonstrations, some of them violent, and spates of armed crimes sorely tested the mettle of the police during this period, particularly the Compagnie d'intervention de maintien de l'ordre and the Unités départementales pour le maintien de l'ordre, units responsible for maintaining order. The police have met these challenges in a professional manner, a measure of the operational progress which the force has made since its creation. It is also an indication of improved command and control procedures, and the result of the efforts of the police directorate to keep the force above the political fray. The effective policing of Carnival was also indicative of the maturity which has been gained. Greater restraint in the use of firearms was reflected in a drop in the number of cases of killings attributed to the police which were reported to MICIVIH over the past three years: 59 in 1996, 53 in 1997 and 31 in 1998. Since the beginning of 1999, three killings allegedly by police have been reported, one of them a detainee who died after being beaten in Camp Perrin police station in April. The police agent implicated was subsequently placed in disciplinary custody. The two other killings were allegedly committed by off-duty policemen, both of whom were arrested, though one has since been released. Police have denied allegations that they were involved in three other recent killings.

22. Police authorities have yet to take broad, effective action to reduce beatings and other forms of ill-treatment. Statistics regarding such allegations fluctuated, though figures for 1998 (423) showed a marked increase, compared to 1997 (284). After dropping towards the end of 1998, allegations began to rise again in the first three months of 1999: 103 allegations were received — a decline, compared to the 131 allegations for the same period last year. Of the 103, about 70 of the detainees had some kind of visible injury — including cuts, head injuries or a broken arm — when interviewed by MICIVIH observers. The *kalot marasa* method (slaps on the ears) has become increasingly common. In one case, a detainee was reportedly threatened at gunpoint in order to elicit information. In two other cases, detainees in the same police station said they were burnt with cigarettes or a candle. MICIVIH regularly brought individual cases and patterns of ill-treatment to the attention of local and regional Haitian National Police authorities and to the General Inspectorate, but only rarely were sanctions imposed, even in cases where complaints regularly implicated the same police agent. Supervisory officers must pay greater attention to these offences and take disciplinary action, when necessary, in order to ensure that ill-treatment of detainees does not become institutional practice.

23. Information in police registers, interviews with detainees in police custody and with police officers themselves suggested that greater attention needs to be given to training in arrest and detention procedures. Irregularities reported included arrests on the basis of a sole denunciation without prior investigation, arrests carried out without warrant but not in cases of *flagrant délit*, and arrests for minor infractions and for acts which are not punishable under the law. Efforts to respect the 48-hour period within which detainees must be taken before a judge were sustained, though there were numerous exceptions, such as the detention of a former examining magistrate in the Pétionville police station since October 1998 without access to a judge.

24. Inquiries by the General Inspectorate and by the General Directorate of the Haitian National Police led to the dismissal of 288 police officers by the end of 1998. Eighteen prison guards and officials were dismissed for allegedly beating detainees in Carrefour prison. Twenty-five police officers who were implicated in human rights violations investigated by MICIVIH in cases which occurred in 1996, 1997 and 1998 were also dismissed. Eight of the 25 agents were implicated in unlawful killings, four in non-fatal shootings and eight in cases of torture or ill-treatment. At the same time, General Inspectorate officials have stressed that one of their most urgent priorities is to combat the involvement of police in drug trafficking and other criminal activities. Forty-one police officers were being held mainly on such criminal charges in prisons in Port-au-Prince as of the beginning of April.

25. By and large, the judiciary was slow to prosecute complaints of human rights violations allegedly committed by police officers. There were, however, a few notable exceptions. Courts in the department of the South are investigating several complaints of police abuses which are being monitored by MICIVIH observers. Another case — the torture and subsequent death of a detainee in Fort Liberté in July 1998 — made noteworthy progress through the courts, the police officers concerned having been imprisoned and also dismissed from the force. Some judicial authorities erroneously argued that they could not begin their investigation until the police inquiry was completed or unless a complaint had been submitted. Twelve of 16 dossiers, including several related to human rights abuses, transferred by the General Inspectorate to the courts in Port-au-Prince in 1998, were still awaiting attention in the *Parquet* as of March. Police authorities criticized judicial inaction in prosecuting such cases, and judicial authorities

complained that the dossiers from the General Inspectorate were incomplete or comprised only of photocopies. It is clear, therefore, that greater coordination is required between the two.

26. MICIVIH drew attention to the problems of police officers who have been subjected to disciplinary detention (*isolement*) for long periods without access to a judicial authority, in some cases several months. Police officials told MICIVIH and MIPONUH in March that a new policy was being implemented of taking officers of the Haitian National Police before a judge within 48 hours if the person concerned was implicated in a criminal offence. In March, a court in Les Cayes released a police officer who legally challenged the fact that he had been held in disciplinary custody for nearly two months.

27. The Haitian National Police has intensified its efforts to improve relations with the population at large, particularly faced with public criticism concerning its perceived inability to stem crime and violence. Additional foot patrols were announced as well as meetings with local authorities and others. National police authorities took part in a seminar on community policing organized by the Ombudsman's Office and *Fon Dwa Moun* in March, where emphasis was placed on the responsibilities of the police to the local communities in which they serve and the need for greater collaboration of the local population in fighting crime. MICIVIH brought together police and other local groups in St. Michel de l'Attalaye (Artibonite) and facilitated efforts to bring together different sectors in Limbé (North) following attacks on the police stations in both towns, in November 1998 and January 1999, respectively. Neither of the two police stations had resumed operations as of the end of March. In Pignon (North), where a new police station was opened, the Mission organized a conflict resolution seminar for the new police and local leaders as a way of preventing the type of incidents which had led to the breakdown in police/community relations in other places.

28. *Brigades de vigilance* and other informal police aides have been operating in some places, mainly in Port-au-Prince and rural areas. MICIVIH believes that police ought to monitor the activities of these individuals and groups to ensure that they do not act outside the law. At least one *brigade*, in Port-au-Prince, was allegedly involved in a lynching during this period, and some aides working with communal section councils have been implicated in beatings and extortion.

29. In partnership with the *Direction des écoles et de la formation continue* (DEFC) of the Haitian National Police, MICIVIH, in coordination with MIPONUH, continued to modify and develop its 10-day training course on human rights and conflict resolution. Begun in 1998, the course had been given to groups of police in all nine departments by the end of March 1999, with follow-up sessions planned for the coming months. The aim was to create a basic module to be incorporated eventually into training for all new recruits at the Police Academy. The course is now run jointly by the Haitian National Police and MICIVIH trainers (both Haitian and international) with a view to having the local instructors take over in the future. In February and March, the Mission gave a series of short training sessions to six groups of 30 police cadets on the subject of violence against women and minors, in order to raise awareness of these issues and to provide a legal framework for the protection of women and minors. The course was extended to cover a full day of study at the request of the participants. A proposal to provide the course to police already in the field is under consideration. The third training programme in which MICIVIH has been directly involved is a pilot project for the hierarchy in the Haitian National Police which is being developed together with the departmental director for the West, representatives of the DEFC and Haitian human rights non-governmental organizations.

B. Prisons and detention centres

30. As of March, MICIVIH had recorded a total prison population of some 3,665 detainees, including 167 women and 103 minors. The opening of a new building inside the National Penitentiary in March eased overcrowding and improved security, effectively separating those facing serious charges from those imprisoned for minor offences. Conditions in other prisons varied, with some still suffering from overcrowding and poor infrastructure. The authorities began implementing a supervisory system to oversee food stocks and budgets in some prisons. However, problems persisted in several prisons, particularly in the National Penitentiary, where food stocks were reportedly sold off, and where numerous detainees reportedly showed signs of malnutrition, some of them serious. Medical care remained precarious. Nursing staff need more training, medicines continue to be in short supply and delays were reported in the transfer of sick prisoners to hospital, either due to lack of transport or lack of guards. MICIVIH and the International Committee of the Red Cross continued assisting the prison authorities to bring about improvements in medical care. With MICIVIH encouragement, arrangements were being made for local hospitals to treat detainees in certain places, with local and Cuban doctors carrying out prison visits. Treatments were organized in

some prisons for outbreaks of skin diseases which were due to poor sanitary conditions, shortage of water and overcrowded conditions. The need to isolate detainees with contagious diseases, such as typhoid and tuberculosis, was highlighted by the Mission.

31. MICIVIH strengthened its working ties with the *Service des études et affaires générales* (SEAG), the unit which supervises the 10 legal assistants of the *Direction de l'administration pénitentiaire* (DAP) who have been working in Port-au-Prince's five prisons, their task being to identify cases of illegal detention, prolonged pre-trial detention, miscalculation of prison sentences and other serious irregularities in prisoner dossiers, with a view to seeking solutions. In addition to accompanying DAP legal assistants on visits to several provinces, MICIVIH regularly participated in SEAG meetings to discuss proposals for improving the legal assistants' work. One of the tasks was the organizing of a roll-call of the approximately 1,700 prisoners at the National Penitentiary following concerns about the upkeep of the prison registry. The roll-call, organized in conjunction with UNDP, MICIVIH and others, was held in April to establish an accurate list of detainees and their legal situation.

32. Improvements in respecting the physical integrity of detainees were maintained — only 11 allegations of ill-treatment have been received by MICIVIH since the end of November, compared to 60 in the first three months of 1998. A prison official told MICIVIH that batons and handcuffs had been removed from guards in the National Penitentiary, because they were being used abusively. A code of conduct for prison guards and a set of internal regulations which have been pending since 1997 have still not been approved or implemented, though some steps were taken to hold prison guards accountable for abuses. Towards the end of 1998, 17 prison guards and the then-director of the National Penitentiary were dismissed for their alleged involvement in the beating of detainees following an April escape attempt from Carrefour prison. The Director alleged publicly that he had been dismissed for refusing to help assassinate certain prisoners. Several other guards and another prison director were dismissed or transferred in early 1999 for disciplinary or other offences, but none in relation to human rights violations.

33. For the first time, in March, three newly trained DAP inspectors-general were assigned to the HNP General Inspectorate with specific responsibility for investigating complaints of human rights violations attributed to DAP guards. Another important innovation was the promotion of staff to posts of prison supervisors (29) and inspectors (six) through competitive examinations. In December, however, the training programmes for new DAP guards and for existing prison record clerks were suspended, due to the closure of the DAP training centre pending a search for new premises. As of the beginning of April, training had still not been resumed. At the request of DAP in Gonaïves, observers gave three training seminars to DAP agents on human rights and international standards for the treatment of detainees, one of which included presentations by DAP and MIPONUH on non-violent methods of subduing detainees and conflict resolution.

C. Justice system

34. Previous reports on MICIVIH activities have detailed many of the deficiencies of the judicial system which have led, *inter-alia*, to the erosion of the rights to individual liberty and to a fair trial within a reasonable time. The period under review revealed no signs of overall progress. The paralysis of the judicial reform programme led to intense criticism from many quarters and growing frustration among the international community because of the delays to projects intended to support the process. Nevertheless, the Mission continued to raise awareness of the plan of action put together by the *Unité de suivi de la réforme du droit et de la justice*, through media interviews, at training sessions for justices of the peace and by distributing copies of the plan, at the request of the Justice Ministry.

35. Though MICIVIH's institution-building activities related to the judiciary were hampered by the institutional crisis and the consequent lack of political will to put in place reforms, it continued nevertheless to monitor cases and courts throughout the country and to make proposals, as appropriate, both at a local and national level. The Mission repeatedly raised cases of excessive pre-trial detention and also unlawful detention (for example, detention for debt) with local judicial authorities throughout the country and pushed for measures at the national level to address the problems. Of the total prison population (3,665), 2,968 were in pre-trial detention as of March 1999. Of these, approximately one third had been held for more than one year, and more than 100 have been languishing in detention for more than three years without trial, some for minor offences. The most serious cases were documented in the National Penitentiary, where 91 dossiers of detainees held without trial since 1995 and 207 since 1996 were recorded; some had not seen a judge since a short time after their arrest.

36. Observers gave technical support and encouragement to judges, especially those who made efforts to fulfil their

professional duties with regard to bringing detainees to trial within a reasonable time limit. The Mission likewise drew the authorities' attention to jurisdictions where the administration of justice was being particularly affected by absent or ineffective judges or prosecutors or by delays in appointing replacement personnel. New appointments in some places gave rise to cautious optimism because of a more professional approach to judicial responsibilities.

37. As reported previously, the Mission expressed its concerns at the highest level about individuals detained in politically sensitive cases (mostly former members of the Armed Forces of Haiti (FAd'H) or others closely associated with the de facto regime) who have been kept in detention by the prosecution in spite of release orders issued by judges on the grounds of unlawful detention or for lack of evidence. Not one of the cases of those arrested for plotting against state security or related charges has ever reached the final trial stage, inspite of the fact that some of the arrests date back to early 1996. To the extent that these well publicized cases have been allowed to drag on over a long period of time, with little if any prosecutorial activity, the excuse of the shortcomings of the system can no longer hold. The unwillingness of the Haitian authorities to take the necessary action on these patently arbitrary cases of detention brought to their attention by MICIVIH and local human rights organizations leads to the inevitable conclusion that security and political considerations outweigh respect for due process. It is therefore not surprising that voices have been raised condemning the authorities for keeping persons in detention for political expediency. The persistence of these cases does grave disservice to the human rights record of the Government by giving credence to the notion that political prisoners exist.

38. As part of its efforts to address this worrisome phenomenon, MICIVIH published a booklet entitled *Le recours pour la protection de la liberté individuelle dans la Constitution de la Republique d'Haiti* which sets out the *habeas corpus* dispositions of the Haitian Constitution and other recourses for protecting the right to individual liberty in Haiti. The Mission also organized a series of debates and discussions to raise public awareness of this important issue with the help of a well-known historian of the Haitian Constitution and a former Minister of Justice and member of the Inter-American Commission on Human Rights.

39. Criminal assizes (court sittings) with and without jury took place between December and March, and were monitored by MICIVIH. Nowhere were the flaws in the justice system more apparent: illegal arrests and detentions, the admission of confessions allegedly extracted under duress, lack of any substantive judicial inquiry, failure to identify or present witnesses, violations of judicial time limits, prosecutions and even convictions on the basis of little or no evidence, faulty procedures for jury selection. A report sent to the Ministry of Justice documented many of these irregularities in one of the trials which took place in Gonaïves. A form prepared by the MICIVIH team in Jérémie, in collaboration with the local State prosecutor, is now being used by the Ministry of Justice throughout the country to collect significant information on cases presented at the assizes, to enable the Ministry to compile statistical and other data.

40. Another major technical impediment to the functioning of the courts has been the inadequate dossiers sent to the examining magistrates. The dossiers are often empty or are missing police reports; the latter are often incomplete or vague. Justices of the peace forwarded reports without the addresses of victims and witnesses, placing further obstacles in the way of investigations. Autopsies are only sporadically conducted, and reports are even more rare.

41. Mission staff members participated in a series of six-week training sessions organized from February onwards by the *Ecole de la magistrature*, in conjunction with a Belgian non-governmental organization, for 120 justices of the peace as part of a programme to improve the professional capacities of existing judicial personnel. The training, which began in February, examined the functions of the justice of the peace and ethical and legal questions related to their work. MICIVIH made presentations on the application of international human rights treaties in Haitian courts, judicial guarantees, and also conciliation and mediation techniques, the latter module having evolved from a pilot programme developed by MICIVIH. In January, the *Ecole de la magistrature* also organized, together with *Médecins du monde*, a symposium and two days of reflection on forensic medicine and human rights, at which MICIVIH gave a presentation on medical ethics and human rights.

42. In order to complement the Mission's expertise, recourse was made to Haitian and international consultants. Two of the latter were recruited to study the draft *code de l'enfant* and to make proposals for amendments, particularly for bringing it into line with provisions of the International Convention on the Rights of the Child. The code was the subject of a conference organized in December by the Ministry of Social Affairs and attended by MICIVIH. A French prosecutor was also recruited as a short-term consultant to contribute to the preparatory work for a revised code of criminal procedure.

43. The designation of a new Justice Minister in the recently established Government holds out the prospect that

new life may be instilled into the dormant judicial reform process, especially since that has been highlighted as a priority area. The Minister has requested MICIVIH's assistance on matters related to impunity and compensation, the defining of very short-term priorities and the implementation of the plan of action. In response to the latter request, MICIVIH transmitted a document which it had prepared and submitted previously to a donors' meeting.

44. The priorities should include the implementation of the *Programme d'action à très court terme pour améliorer le fonctionnement de la justice*, which was agreed between international donors and Haitian authorities in July 1998; the development of the *Ecole de la magistrature* into a proper training school in order to ensure the continued output of new and qualified personnel to improve the functioning of the judicial system (no new intake of long-term students has taken place since the first group graduated in May 1998, although there has been some continuous training of judicial personnel); the development of a police and judicial criminal investigation capacity, including forensic training and expertise, to ensure the detention and prosecution of suspects on the basis of well documented dossiers; and the establishment of a functioning judicial inspectorate to closely supervise judicial work as one of the fundamental steps towards improving judicial performances.

D. Impunity and compensation

45. The development of a coherent and transparent strategy to tackle the issue of impunity and compensation must also be a priority for the new Justice Minister. In this regard, a recently completed study by MICIVIH, which makes recommendations to the State, civil society and non-governmental organizations, could offer some helpful suggestions. Based on two years of research, it includes an overview of the various initiatives taken in Haiti to deal with impunity as well as a detailed analysis of the judicial system's handling of cases of past human rights violations before the courts, including the 1994 Raboteau massacre. The preparation of that trial suffered setbacks and delays because of procedural disputes during the period under review, though there were some new arrests. The judge responsible for the case recently resumed his investigations after the state prosecutor returned the dossier to him so that he might complete his inquiry. During this period MICIVIH submitted information it had gathered on the case to the judicial authorities, at their request, and advised on matters related to scientific proof. In another of the cases referred to in MICIVIH's report, that of assassinated Justice Minister Guy Malary, a United States non-governmental organization, the Lawyers Committee for Human Rights, filed a supplementary petition before the Inter-American Commission on Human Rights on the grounds that the Haitian Government had failed to fulfil its duties to carry out a proper investigation.

46. The issue of compensation continued to cause controversy, particularly regarding the manner in which the 60 million *gourdes* budget of the *Bureau poursuite et suivi* was distributed. In January, the Bureau published a report setting out what it had achieved during the 1997–1998 fiscal year, including a sensitization and mobilization programme, the provision of housing, training centres and schools, and legal and economic assistance to victims and their associations. Proposals and recommendations for developing a national policy regarding compensation were based on study of groups of victims carried out with MICIVIH support.

47. MICIVIH facilitated a follow-up visit of 1980 Nobel Peace Prize winner Adolfo Perez Esquivel as a gesture of support and solidarity for Haitian human rights organizations and a way of refocusing attention on the issues of impunity and compensation. During his visit, Mr. Perez called on human rights organizations to work more closely together, urged the return of the documents the Front révolutionnaire pour l'avancement et le progrès d'Haiti (FRAPH) and of FAd'H, currently in the keeping of the United States authorities, and suggested the convening, in Haiti, of an international conference on impunity and the building of democracy.

48. Three years after the completion of the report of the National Truth and Justice Commission, its findings are still largely unfamiliar to the public at large or to lawyers and judicial officials. To help improve the circulation of such information, MICIVIH continued to distribute copies of the report, at the request of the Ministry of Justice.

E. Office of the Ombudsman

49. Though officially opened in 1997 the Ombudsman's office has yet to become fully operational, in spite of a dedicated staff. As previously reported, lack of funding and other resources seriously restricted its work, including its ability to investigate and intervene on individual complaints. MICIVIH continued to provide technical assistance and other forms of support to the Office in its efforts to improve its operating structures and operations. A MICIVIH expert is participating in the development of strategies and methods to strengthen relations with state authorities and civil

society. Having completed an initial visit in November/December 1998, an international consultant returned to Haiti in April to help develop administrative policies and funding strategies for the Office. Another consultant worked with the Office over a three-week period to advise on the collection of statistics and the preparation of reports. In conjunction with other organizations, the Office pursued its promotional activities, participating in activities for the fiftieth anniversary of the Universal Declaration of Human Rights and organizing several roundtable discussions on other issues relating to human rights, such as community policing, the roots of violence and the right to individual liberty.

F. Human rights promotion and advocacy

50. As usually occurs at the start of a new mandate period, MICIVIH's civic and human rights education programme was greatly reduced during the period in question, pending the start of the new budget year and a review of its activities. A major focus has been the development of a pilot programme of seminars on human rights, women's rights and civic education with the State Secretariat for Literacy (SEA). The programme is directed at SEA trainers who would, in turn, organize seminars in their own local communities as part of the Secretariat's adult literacy programme. MICIVIH provided animators and logistical support for the seminars, which are due to be held between April and July, after which an evaluation will be carried out.

51. The Mission continued to work with local human rights organizations, mainly in terms of training, to assist in strengthening their capacity for human rights monitoring. The consolidation of a network of committees set up, with MICIVIH assistance, to monitor prisons and police custody cells remained a priority, particularly in light of the Mission's eventual departure.

52. The fiftieth anniversary of the Universal Declaration of Human Rights was marked by a country-wide programme spread over several months. It included a painting competition for children, the winning entries of which were produced as posters; a travelling exhibition on the Declaration and the history of human rights in Haiti; an exhibition of paintings by Haitian artists illustrating the articles of the Declaration; debates, film showings, dance and theatre events, and donations of collections of books on human rights to 25 libraries. Tens of thousands of copies of the Declaration in Creole and French were distributed. A study on the role of Haiti in the adoption of the Declaration, prepared by MICIVIH, was circulated during these activities.

53. MICIVIH staff attended regular meetings of the Gender Theme Group of the United Nations system, which coordinates United Nations projects on women in Haiti. With other United Nations agencies and Haitian women's organizations and institutions, the Mission organized, participated in or supported activities for International Day against Violence against Women, on 25 November 1998, and International Women's Day, on 8 March. To mark the latter, several hundred people attended a theatre performance organized by MICIVIH and the *Centre culturel pyepoudre* at a Port-au-Prince theatre. The play, *Kasezo*, by Haitian author Frankétienne, depicted the situation of Haitian women and those who have defended them from violence. MICIVIH's Press and Information Unit produced and distributed a radio programme in which four representatives of the Haitian women's movement analysed the situation of women. Seminars and debates were organized or supported by MICIVIH in several towns, and one regional office (Jacmel) produced a TV programme which featured, among others, a female Haitian National Police who heads the local community police unit.

54. As part of its efforts to distribute information more widely throughout Haitian society, the Mission developed and distributed two new documents in French: *Le courrier de la MICIVIH*, a monthly bulletin focusing on various themes and activities of the Mission, and *Droits de l'homme en Haïti*, a three-monthly review of the human rights performance of the police, prisons and justice system, based on MICIVIH's work in the three areas of its mandate: promoting human rights, human rights monitoring, and institution-building. A documentary film on MICIVIH's work was also nearing completion. As part of its advocacy and promotion activities, observers in the field collaborated in radio programmes in several provinces and organized showings of human rights promotional videos in isolated rural areas.

55. In order to help improve the media's coverage of human rights issues, MICIVIH gave a training seminar on human rights for journalists in the Grand'Anse, and also a technical course for a TV crew in Jacmel which then produced a documentary on a MICIVIH-HNP training seminar for police. Radio, TV and print media regularly covered human rights issues, including press communiqués and interviews with MICIVIH directors.

IV. Conclusions and recommendations

56. The overall human rights situation has been adversely affected by the turmoil, increased polarization and partisan behaviour following the political and institutional crisis in early January. The general human rights climate has also been worsened by the accompanying wave of protests and demonstrations, some of them violent and destructive of private property, and by the heightened sense of insecurity springing from an increase in threats and acts of intimidation, and by the spates of armed crime, acts of violence and assassinations or attempted assassinations, some of them possibly politically motivated.

57. Despite these setbacks, there have also been certain positive developments. Broad respect for the fundamental freedoms of expression, assembly and association has been maintained. The policing of demonstrations and protests has largely been carried out in a professional manner with few reported abuses, and police have generally exercised greater respect for the right to life. Prison guards have also shown improved respect for the right to physical integrity of detainees. However, the worrisome trend of police involvement in crime, including drug trafficking, continues. The persistence of beatings and other forms of ill treatment by the police requires more prompt and sustained corrective action. Similarly, the well documented shortcomings of the judicial system, which have seriously eroded respect for the right to individual liberty and due process, must be forcefully addressed.

58. Pursuant to paragraph 5 of General Assembly resolution 53/95, initial discussions have taken place in New York with regard to the continuation of the tasks set out in paragraph 1 of that resolution. In view of the fact that MICIVIH and MIPONUH liaise and cooperate closely on the ground, these discussions have involved the heads of both missions, officials of the Departments of Political Affairs and of Peacekeeping Operations, of the United Nations Secretariat, representatives of UNDP, officials of the General Secretariat of the OAS, as well as the Friends of Haiti.

59. Given the adverse consequences of the protracted crisis and the existing situation in Haiti at this mid-term review of the mandate of MICIVIH, it is apparent that much still remains to be accomplished with regard to the strengthening of state institutions and civil society organizations, essential elements of the exit strategy of the Mission. More time is required for the transition period in which the Mission had hoped to ensure the sustainability of the necessary reforms and the reinforcement of local capacities.

60. The evolution of the political and institutional crisis and of any interim measures which the transitional Government will put in place to meet the challenge of judicial reform will have a considerable impact on the capacity of MICIVIH to fulfil the institution-building aspect of its mandate in the coming months. A further priority for MICIVIH towards the end of 1999 must be to pursue its contribution to developing local capacity at the state and civil-society levels within its transition strategy and to assist those institutions and entities in better protecting and promoting human rights.